

Message Text

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ACTION EB-08

INFO OCT-01 EUR-12 ISO-00 SSO-00 NSCE-00 CAB-02
CIAE-00 COME-00 DODE-00 DOTE-00 INR-10 NSAE-00
FAA-00 L-03 INRE-00 SS-15 PA-01 ICAE-00 H-01
/053 W

-----118385 131649Z /41

O 131637Z SEP 78
FM AMEMBASSY BONN
TO SECSTATE WASHDC IMMEDIATE 1836

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PASS TO UNDER SEC. COOPER; PASS IMMEDIATE TO DOT AND CAB.

E.O. 11652: N/A
TAGS: EAIR, GW
SUBJECT: USG-FRG CIVAIR NEGOTIATIONS, SECOND REPORT

REF: BONN 16692

1. SUMMARY. SECOND DAY OF NEGOTIATIONS BEGAN WITH DISCUSSION OF RATE ARTICLE, CONTINUING FOCUS OF PREVIOUS DAY. FRG HELD FIRM ON OPPOSITION TO ISRAELI-TYPE RATE ARTICLE, STATING THIS TO BE A FIRM MATTER OF PRINCIPLE ON WHICH THERE WAS NO ROOM FOR COMPROMISE. FRG PROPOSED THAT THE DUTCH-TYPE RATE ARTICLE WITH COUNTRY-OF-ORIGIN TARIFF APPROVAL PROVISIONS WOULD BE AS FAR AS THEY WERE PREPARED TO GO. IN OTHER AREAS, INCLUDING ACCEPTANCE OF COUNTRY-OF-ORIGIN CHARTER RULES, THERE APPEARED TO BE NO FUNDAMENTAL ISSUES OF PRINCIPLE PREVENTING FRG ACCEPTANCE OF GENERAL U.S. DEMANDS. DISCUSSIONS TODAY DID NOT FOCUS ON THE EXTENT OF NEW ROUTES WHICH MIGHT BE GRANTED TO FRG, ALTHOUGH FRG DESIRE FOR ACCESS TO FULL US MARKET IS EVIDENT. US DEL SENSED THAT THERE WAS A
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STRONG DESIRE ON THE PART OF FRG DEL CHAIRMAN REHM TO REACH GENERAL AGREEMENT ON SOME BROAD PACKAGE BY END OF WEEK.

2. DISCUSSIONS RESUMED ON RATE ARTICLE WITHOUT SUBSTANTIAL PROGRESS. FRG OFFERED TO GIVE ASSURANCES ON U.S. CONCERNS RE DISCRIMINATION POSSIBLE UNDER

A COUNTRY-OF-ORIGIN REGIME, BUT USDEL CONTINUES TO SEE LITTLE POSSIBILITY THAT THIS APPROACH WOULD MEET U.S. OBJECTIVES. DISCRIMINATORY CONDITIONS WOULD BE IMPOSSIBLE TO GUARD AGAINST, AND ANY EVENT THE FRG COULD BLOCK LOW FARES IN THE GERMAN MARKET. (IN SIDE CONVERSATIONS, USDEL BECAME CONVINCED THAT FRG ADMINISTRATION OF A COUNTRY-OF-ORIGIN REGIME MIGHT HAVE AS A MAJOR GOAL THE MAINTENANCE OF LUFTHANSA'S DOMINANT MARKET POSITION). USDEL RAISED, AMONG OTHER OPTIONS FOUND UNACCEPTABLE BY THE FRG, THE HYBRID CONCEPT OF A COUNTRY-OF-ORIGIN REGIME WITH A REFERENCE-POINT LEVEL ABOVE WHICH FARES COULD NOT BE DISAPPROVED. THE REFERENCE POINT COULD BE CALCULATED ON THE BASIS OF FARES APPROVED FOR THE OTHER MARKET PLUS AN AGREED PERCENTAGE MARGIN OF ERROR. FRG SAID THIS WAS UNACCEPTABLE, SINCE IT WOULD FORCE THEM TO RUBBER STAMP DECISIONS OF THE CAB, EVEN IF THERE WERE A ZONE OF EXTRA PROTECTION. FRG MAINTAINED THIS WOULD BE A MAJOR SURRENDER OF SOVEREIGNTY.

3. FRG PURSUED YESTERDAY'S SUGGESTION FOR A LIMITED AGREEMENT, ONE THAT WOULD INCORPORATE THOSE AREAS WHERE THERE APPEARED TO BE AGREEMENT. THESE WOULD INCLUDE COUNTRY-OF-ORIGIN CHARTERS (WITH QUALIFICATION NOTED IN PARA 4 OF REFTEL), LIFTING OF CAPACITY LIMITED OFFICIAL USE

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PRINCIPLES ON THIRD-AND FOURTH-FREEDOM TRAFFIC (REFTEL PARA 3), POSSIBLY A TARIFF ARTICLE OF US WOULD AGREE TO DUTCH FORMULATION, AND EQUALITY OF ROUTE RIGHTS. LATTER POINT TURNED OUT TO BE FULL ACCESS TO U.S. MARKET, AND NOT JUST ONE POINT AS HAD BEEN HOPED IN REFTEL PARA 9. USDEL RESPONDED THAT ANY AGREEMENT THAT INCLUDED OPEN-SKY RIGHTS FOR FRG AIRLINES WOULD HAVE TO INCLUDE SATISFACTION OF ALL BASIC U.S. OBJECTIVES, INCLUDING SOMETHING AT LEAST CLOSE TO ISRAELI RATE ARTICLE. USDEL SAID IT COULD CONSIDER AS AN IMMEDIATE AND LIMITED AGREEMENT A PURE COUNTRY-OF-ORIGIN CHARTER ARTICLE, WITHOUT NEW SCHEDULED RIGHT FOR FRG. FRG SAID THIS WAS NOT ACCEPTABLE, BECAUSE IT SAW CHARTER AND SCHEDULED REGULATORY ISSUES TO BE LINKED IN BOTH A PRACTICAL AND BARGAINING SENSE.

4. AFTER HEARING USDEL VIEWS ON A LIMITED AGREEMENT, FRG DEL RETURNED IMMEDIATELY TO THE ISSUE OF THE RATE ARTICLE AND SAID SOME SOLUTION HAD TO BE FOUND CONSISTENT WITH FRG PRINCIPLE OF SOVEREIGNTY. FRG

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CIAE-00 COME-00 DODE-00 DOTE-00 INR-10 NSAE-00
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SAID IT WAS PREPARED TO COMPROMISE ON OTHER POINTS,
ASSUMING US WAS PREPARED TO COMPROMISE AS WELL.
NEXT SESSION SCHEDULED TO BEGIN 1300 LOCAL TIME ON
THURSDAY, TO GIVE TIME FOR MUTUAL REFLECTION.

5. CHANGE OF GAUGE ISSUES WERE DISCUSSED BRIEFLY.
FRG PREPARED TO ACCEPT U.S. POSITION, EXCEPT THAT
FAN AND "Y" CHANGES SHOULD NOT BE ALLOWED. FRG
POSITION, WHICH MAY BE CORRECT, IS THAT PRESENT
EXCHANGE OF LETTERS ON CHANGE OF GAUGE APPLIES ONLY
TO CHANGES IN THIRD COUNTRIES (E.G., THE UK) ON
FLIGHTS BETWEEN US AND FRG, AND NOT TO CHANGES IN THE
FRG. YET, IN CONTEXT OF A GOOD AGREEMENT, FRG
WOULD AGREE TO ALLOW EXPLICITLY CHANGES IN FRG.
(IT MAY BE IN THE GERMANS' MIND TO OBSTRUCT CHANGES
IN THE FRG IS NO AGREEMENT IS REACHED.)

6. COMMENT. FRG HAS MOVED ON A NUMBER OF POINTS.
CLEARLY THEY VIEW A DUTCH ARTICLE AS A MAJOR
CONCESSION AND A BREAK FROM THE REST OF EUROPE.
THEY ARE ALSO PREPARED TO ACCEPT A COUNTRY-OF-ORIGIN
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CHARTER REGIME, ALLOW COTERMINALIZATION OF US POINTS
IN FRG, AND ELIMINATE DIRECTIONAL LIMITATIONS ON US
BEYOND RIGHTS (ASSUMING WE WILL GIVE SOMETHING ON
BEYOND RIGHTS). THEY APPEAR WILLING TO ACCEPT A
STRONG POSITION ON MULTIPLE DESIGNATION. THIS IS
MEANINGFUL PROGRESS AND HAS BEEN YIELDED BY THE
FRG WITH RELUCTANCE. YET THE GERMANS ARE STANDING
FIRM ON A MAJOR U.S. OBJECTIVE-- CONCRETE ASSURANCES
OF PRICE COMPETITION FOR THE FRG MARKET. USDEL
DOES NOT PROPOSE TO YIELD ON THIS OBJECTIVE, AT
LEAST FOR THE TIME BEING, BECAUSE SOME GIVE MAY
YET BE POSSIBLE. AND IT IS NOT CLEAR TO US THAT
THE PACKAGE OF ROUTE RIGHTS INVOLVED IS JUSTIFIED
BY A DUTCH RATE ARTICLE. ADDITIONALLY, EVEN IF
A SMALLER ROUTE PACKAGE WILL GET A BROAD AGREEMENT
WITH A DUTCH RATE ARTICLE, THIS COULD WELL BE
AT THE EXPENSE OF OUR LEVERAGE NEEDED IF AN
ISRAELI ARTICLE IS TO BE OBTAINED LATER.

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